

FOURTH APPELLATE DISTRICT
DIVISION ONE
SEPTEMBER 20, 2004

D044975 In re Urquidez on Habeas Corpus

The petition is denied.

D045010 San Diego Testing Engineers et al. v. Superior Court of San Diego County/Vista Unified School District

The petition for writ of mandate, request for stay and request for judicial notice have been read and considered by Presiding Justice McConnell and Associate Justices McIntyre and Irion. The request for judicial notice is granted. The petition is denied.

D044972 In re Urquidez on Habeas Corpus

The petition is denied.

D044558 People v. Jordan

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

D044039 People v. Maldonado

The judgment is affirmed. McDonald, Acting P.J.; We Concur: McIntyre, J., Aaron, J.

D044233 In re Imani B., a Juvenile

The judgment is affirmed. Irion, J.; We Concur: Haller, Acting P.J., McIntyre, J.

Court convened at 9 a.m.

Present: The Honorable Gilbert Nares, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

Clerk: D.E. Moore

D043888 People v. Hansen

Cause called on merits. Patrick Morgan Ford, Esq. argued for appellant. Lynne G. McGinnis, Deputy Attorney General argued for respondent. Mr. Ford replied. Cause submitted.

Court recessed at 9:25 a.m. to change panel members. New panel members: The Honorable Judith Haller, Acting Presiding Justice, and The Honorable Associate Justices Cynthia Aaron and Joan Irion

D042798 People v. Alexander

Cause called on merits. Janice R. Mazur, Esq. argued for appellant. Robert M. Foster, Deputy Attorney General argued for respondent. Ms. Mazur replied. Cause submitted.

Court recessed at 9:45 a.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Cynthia Aaron

D042307 People v. Kahle

Cause called on merits. Cristina Gabrielidis, Esq. argued for appellant. Daniel Rogers, Deputy Attorney General argued for respondent. Ms. Gabrielidis replied. Cause submitted.

Court recessed at 10 a.m. until 1 p.m.

FOURTH APPELLATE DISTRICT
DIVISION ONE
SEPTEMBER 20, 2004 (Continued)

Court reconvened at 1 p.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Judith Haller and Alex McDonald
Clerk: D.E. Moore

D041619 People v. Bernal

Cause called on merits. Janice Deaton, Esq. argued for appellant. Lynne G. McGinnis, Deputy Attorney General argued for respondent. Ms. Deaton replied. Cause submitted.

Court recessed at 1:31 p.m. to change panel members. New panel members:
The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Alex McDonald and James McIntyre

D043137 People v. Motter

Cause called on merits. Matthew Braner, Deputy Public Defender argued for appellant. Lynne G. McGinnis, Esq. argued for respondent. Mr. Braner replied. Cause submitted.

Court recessed and 1:48 p.m. to change panel members. New panel members: The Honorable Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Judith Haller

D043928 Craig L. v. Sandy S. et al.

Matter called on merits. Leslie Shear, Esq. argued for appellant. Judith E. Klein, Esq. argued for respondent. Timothy Smith, Esq. argued for respondent, Brian A. Ms. Shear replied. Matter submitted.

Court recessed at 2:21 p.m. to change panel members. New panel members: The Honorable Associate Justices Patricia Benke, Acting Presiding Justice, and The Honorable Associate Justices Judith Haller and Terry O'Rourke

D042430 Riverwatch v. County of San Diego

Cause called on merits. Rachel Helyar, Esq. argued for appellant. Carlyle W. Hall, Jr., Esq. argued for appellant. Tina A. Thomas, Esq. argued for respondent, rpi-respondent, Palomar Aggregates, Inc. Mr. Hall replied. Ms. Helyar replied. Ellen Pilsecker, Deputy County Counsel was present in oral argument, but did not argue. Tiffany K. Wright, Esq. was present in oral argument, but did not argue. Cause submitted.

Court recessed at 2:59 a.m. to change panel members. New panel members: Judith McConnell, Presiding Justice, and The Honorable Associate Justices Patricia Benke and Richard Huffman

D043857 Bashkin v. Glickman, et al.

Cause called on merits motion to declare Mr. Bashkin a vexatious litigant. Paul Bashkin, argued for appellant/cross-respondent in pro per. Martha Botten, Esq. argued for respondent/cross-appellant. Cause submitted.

Court recessed at 3:25 p.m. to change panel members. New panel members: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Gilbert Nares and Alex McDonald

FOURTH APPELLATE DISTRICT
DIVISION ONE
SEPTEMBER 20, 2004 (Continued)

D041356 Daniels, et al. v. Philip Morris Incorporated et al.

Cause called on merits. David Markham, Esq. argued for appellant. Dan Collins, Esq. argued for respondent. Mr. Markham replied. Cause submitted.

Court adjourned at 4:15 p.m.

D042549 People v. Lemus

The sentence as to the enhancement to count 4 and the sentence for count 6 are vacated and the case remanded to the superior court to conduct a new sentencing hearing. In all other respects, the judgment is affirmed. CERTIFIED FOR PARTIAL PUBLICATION. Huffman, J.; I Concur: Aaron, J.; Concurring and dissenting (opinion), Benke, J.

FOURTH APPELLATE DISTRICT
DIVISION ONE
SEPTEMBER 21, 2004

D045036 In re Alfonso S. on Habeas Corpus

The petition is denied.

D043516 People v. Walton

The judgment is affirmed. Haller, Acting P.J.; We Concur: McDonald, J., O'Rourke, J.

D044968 Armstead v. Superior Court of San Diego County/People

The petition is denied.

D043817 In re Austin W. et al., Juveniles

The orders are affirmed. Nares, J.; We Concur: McConnell, P.J., Irion, J.

D044927 In re Smith on Habeas Corpus

The petition is denied.

D044771 Ablahad et al. v. Superior Court of San Diego County/Daley et al.

The petition is denied.

D043034 Brown v. Collier

The judgment is affirmed. Irion, J.; We Concur: McIntyre, Acting P.J., O'Rourke, J.

D042211 People v. Barnhart

The judgment is affirmed. McConnell, P.J.; We Concur: McDonald, J., McIntyre, J.

D043722 In re Andrew T. et al., Juveniles

The Agency's motion to dismiss a portion of the appeal is denied. The judgments are affirmed. Huffman, Acting P.J.; We Concur: Nares, J., Aaron, J.

FOURTH APPELLATE DISTRICT
DIVISION ONE
SEPTEMBER 22, 2004

D040335 Ebert v. Hurst

The petition for rehearing is denied.

D042140 Kitlas v. Harry et al.

The orders and judgments are affirmed. Parties to bear their own costs on appeal. Nares, J.;
I Concur: McIntyre, J.; Concurring and dissenting (opinion), Benke, Acting P.J.

D044091 In re Amber T., a Juvenile

The judgment is affirmed. McIntyre, J.; We Concur: McConnell, P.J., McDonald, J.

D041936 Estate of Eulalia W.P. Cepeda, Deceased

The order is affirmed in its entirety. Parties to bear their own costs on appeal. Nares, J.;
I Concur: McIntyre, J.; I respectfully dissent (by opinion): Benke, Acting P.J.

D042453 People v. Jones

The judgment is affirmed. McDonald, J.; We Concur: Haller, Acting P.J., Irion, J.

**D044694 Maria S. v. Superior Court of San Diego County/San Diego County Health and
Human Services Agency**

The petition is denied. Aaron, J.; We Concur: Huffman, Acting P.J., Haller, J.

D041163 Ebert v. Beals et al.

The petition for rehearing is denied.

D043158 People v. Del Pozo

The judgment is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., Aaron, J.

D042606 People v. Thomas

For the foregoing reasons, the judgment is affirmed. Irion, J.; We Concur: McConnell, P.J.,
O'Rourke, J.

D045027 In re Singleton on Habeas Corpus

The petition is denied.

D044898 Ramirez v. Workers Compensation Appeals Board/Marriott International, Inc.

The petition is denied.

D042386 People v. Cloud

The petition for rehearing is denied. The opinion dated August 25, 2004 is modified (no change in
judgment).

D045095 Brown v. Superior Court of San Diego County/People

The petition is denied.

FOURTH APPELLATE DISTRICT
DIVISION ONE
SEPTEMBER 22, 2004 (Continued)

**D044790 Suzette G. et al. v. Superior Court of San Diego County/San Diego County Health
and Human Services Agency**

By failing to file a timely petition for writ relief, the notice of intent is deemed to be abandoned. The case as to Suzette G. is dismissed.

Real Party in Interest's response to Kenneth I.'s petition for extraordinary writ is due 10 days from the date of this order.

FOURTH APPELLATE DISTRICT
DIVISION ONE
SEPTEMBER 23, 2004

D045069 Avasa L., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

The Notice of Intent filed September 10, 2004 is premature as no Welfare & Institutions Code section 366.26 hearing has been set. The case is dismissed.

D042508 People v. Remsen

The judgment is affirmed. Irion, J.; We Concur: Nares, Acting P.J., McIntyre, J.

D043737 People v. Wooten

The judgment is affirmed. McDonald, Acting P.J.; We Concur: McIntyre, J. Irion, J.

D042679 In re Marriage of Parkerson and Carpenter

The order denying Rachelle's request to move Griffin from the state is affirmed. Benke, Acting P.J.; We Concur: Nares, J., Haller, J.

D043432 In re David A., a Juvenile

The judgments are reversed. The court is directed to hold a hearing forthwith on the merits on Ann's section 388 modification petition. If Ann does not prevail on her petition, the court must conduct a new section 366.26 hearing. Irion, J.; We Concur: Haller, Acting P.J., McDonald, J.

D044960 Kilkenny v. Ellis

The appellant having failed to timely pay the filing fee, the appeal is DISMISSED. (Cal. Rules of Court, rule 1(c)(5)).

D044108 In re Brandon L, a Juvenile

The judgment terminating parental rights is reversed. This matter is remanded to the juvenile court, with directions that it (1) require the Agency to give proper ICWA notice to any appropriate tribe and the BIA, and file with the court the notices, return receipts, and any responses; and (2) hold a new section 366.26 hearing. If, at the new section 366.26 hearing, the court determines the ICWA notice was proper and no Indian entity seeks to intervene or otherwise indicates Brandon is an Indian child as defined by ICWA, the court shall reinstate all of its previous findings and orders, including the termination of parental rights. If, on the other hand, an Indian entity determines Brandon is an Indian child under ICWA, the court shall conduct the detention, disposition and all subsequent hearings in accordance with ICWA.. McConnell, P.J.; We Concur: Benke, J., O'Rourke, J.

D045077 Simpkins v. Superior Court of San Diego County/Burdette

The petition is denied.

FOURTH APPELLATE DISTRICT
DIVISION ONE
SEPTEMBER 24, 2004

D044964 Connelly v. Superior Court of San Diego County/Intergulf Development
The petition is denied.

D045093 In re Lane on Habeas Corpus
The petition is denied.

D044983 Chapman v. Superior Court of San Diego County/Trustees of the California State University
The petition is denied.

D044961 Connelly v. Superior Court of San Diego County/Pickford New Homes Real Estate, Inc., et al.
The petition is denied.

D045094 In re Alyssa F., a Juvenile
The notice of appeal is untimely. The appeal is dismissed.

D043142 Sanchez v. San Diego Unified School District et al.
The order is reversed. The matter is remanded and the court is ordered to grant appellant's request for an extension of time to file the petition for writ of mandate to 30 days after he receives the administrative record. O'Rourke, J.; We Concur: McConnell, P.J., McIntyre, J.

D041519 People v. Jackson
The judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., Aaron, J.

D043605 Warburton/Buttner v. First Nation Gaming LLC
Order reversed. Warburton/Buttner to recover its costs of appeal. Benke, Acting P.J.; We Concur: Huffman, J., Haller, J.

D044960 Kilkenny v. Ellis
On the Court's own motion, this court's order of September 23, 2004, dismissing the above-entitled appeal is vacated and the appeal is reinstated. The Civil Case Information Statement is due 10 days from the date of this order.